

ENTERED

May 10, 2019

David J. Bradley, Clerk

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

**HOUSTON ZOO, INC.
D/B/A THE HOUSTON ZOO,**

Plaintiff,

v.

CAUSE NO.: 4:19-cv-1593

**HOUSTON INTERACTIVE
AQUARIUM AND ZOO LLC,**

Defendant.

JURY TRIAL DEMANDED

FINAL JUDGMENT AND AGREED PERMANENT INJUNCTION

Before the Court is the Joint Motion for Entry of Final Judgment and Agreed Permanent Injunction (the "Joint Motion") filed by plaintiff the Houston Zoo, Inc. d/b/a the Houston Zoo (the "Houston Zoo") and defendant Houston Interactive Aquarium and Zoo, LLC ("Defendant").

The Court, having reviewed the Motion, enters the following **ORDER** per the terms of the parties' agreement. The Court rules in favor of the Houston Zoo on Counts 1 and 2 of its Original Verified Complaint (D.E. No. 1), and grants a permanent injunction against Defendant as follows:

- a) Defendant and each of its agents, employees, officers, attorneys, successors, assigns, affiliates, and related entities shall not use the names "Houston Aquarium and Zoo" and "Houston Interactive Aquarium and Zoo," nor any other names, trademarks, or service marks that contain the words "Houston" and "Zoo," whether or not accompanied by a logo, to market, advertise, distribute or identify Defendant's products and/or services and it shall cease using any materials that currently contain such names, trade marks and service marks;
- b) Within seven (7) days of the entry of this Order, Defendant shall cease all use of the designations "Houston Aquarium and Zoo" and "Houston Interactive Aquarium and Zoo" in its business, and shall refrain from any such further use.
- c) Within seven (7) days of the entry of this Order, Defendant shall delete any references to "Houston Aquarium and Zoo" and "Houston Interactive Aquarium

and Zoo,” including all pictures, logos, and pictures containing logos, on its website located at <https://houstonaquariumtx.com/> and shall refrain from any such further use;

- d) Within seven (7) days of the entry of this Order, Defendant shall take down or rename, or cause to be taken down and renamed, the Facebook page located at the following website address (URL): <https://www.facebook.com/pages/Houston-Interactive-Aquarium-and-Zoo/1182140678606242>, such that the website address no longer contains the words “Houston” and “Zoo;”
- e) Defendant shall not make any further references to “Houston Aquarium and Zoo” and “Houston Interactive Aquarium and Zoo” on any social media page, including but not limited to Facebook;
- f) Within fifteen (15) days of the entry of this Order, Defendant shall delete or remove, or cause to be deleted and removed, any photographs posted on its website and any of its social media pages, including but not limited to Facebook, that were taken at, depict, or purport to depict the Houston Zoo;
- g) Within seven (7) days of the entry of this Order, Defendant shall terminate any advertising program, including online advertising, and not disseminate any advertising, including online advertising, that uses the terms “Houston” and “Zoo;”
- h) Should Defendant fail to comply with steps c) through g) in the time ordered by the Court, the Houston Zoo may contact Defendant’s web hosting service provider, domain name registrar, Facebook, other social media hosting services, and any relevant search engine providers, respectively, and inform those entities that Defendant’s refusal to take such steps as ordered by this Court constitutes a violation of this Court’s Order, and that those hosting entities shall take every step necessary to effectuate the relief granted in this Order; and
- i) Defendant shall not register or use any registered business name that contains the words “Houston” and “Zoo,” and shall confirm to the Houston Zoo by affidavit notarized in front of a notary public within fifteen (15) days of this Order that it has filed a certificate of termination or certificate of amendment with the Texas Secretary of State either terminating the business or amending the business name “Houston Interactive Aquarium and Zoo LLC;”
- j) Defendant shall not use any designation of origin or description or representation which falsely suggests or represents an association or connection with the Houston Zoo;
- k) Defendant shall provide a full refund, upon request, to any customers who represent to Defendant that they purchased Defendant’s membership pass as a result of mistake or confusion, believing either that there was an affiliation between Defendant and the Houston Zoo or that such membership pass would allow admission to the Houston Zoo; and

- l) Within seven (7) days of the entry of this Order, Defendant shall delete any references to "Houston Aquarium and Zoo" and "Houston Interactive Aquarium and Zoo," including all pictures, logos, and pictures containing logos, on any of its business materials, including but not limited to advertising materials, any letterhead on correspondence, email signature blocks, tickets, membership passes, and on any other signage.

The terms of the foregoing injunction shall apply worldwide.

This Final Judgment and Agreed Permanent Injunction shall constitute full satisfaction of all claims for relief asserted in the Complaint. No other relief shall be granted. Each party shall bear its own attorneys' fees and costs.

The Court retains jurisdiction to the maximum extent permitted by law to enforce the terms of this Permanent Injunction.

SIGNED on 10th day of May, 2019 at 8:30 o'clock a.m.



NANCY F. ATLAS
SENIOR UNITED STATES DISTRICT JUDGE

**AGREED AS TO FORM AND SUBSTANCE
AND REQUESTED FOR ENTRY BY:**

BAKER & HOSTETLER LLP

By: /s/ Kody D. L. Kleber

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**ATTORNEYS FOR PLAINTIFF,
HOUSTON ZOO, INC. D/B/A THE
HOUSTON ZOO**

And

A handwritten signature in blue ink, appearing to read "Larry Donahue", is written over a horizontal line.

**Larry Donahue
AS AUTHORIZED REPRESENTATIVE OF**

**HOUSTON INTERACTIVE AQUARIUM AND
ZOO LLC AND ALL OF ITS AFFILIATES**